

**COMPLAINT SYSTEM RELATING TO THE
EDUCATION OF CHILDREN WITH DISABILITIES**

Requests for information regarding federal and state special education requirements may be made by anyone to the Department at the following address or phone number:

**Arizona Department of Education
Exceptional Student Services
1535 West Jefferson Street
Phoenix, AZ 85007
Phone: (602) 364-4000
FAX: (602) 364-0641**

Such requests may include:

- Explanations and clarifications;
- Copies of special education laws and regulations; or
- Referrals to other more appropriate persons or processes.

It is suggested that anyone who has a question or concern about the education of a child with a disability first contact the administration of the local public school district, the public agency, or the charter school where the child attends school. Usually the best local person to contact for information is the person who is in charge of special education.

When the Arizona Department of Education/Exceptional Student Services (ADE/ESS) Division is contacted about concerns with a child's special education program that has not been resolved at the local level, the ADE/ESS staff will inform the person(s) of the procedural safeguard protections under the Individuals with Disabilities Education Act Amendments of 1997 (IDEA '97). There are three formal dispute resolution options: access to mediation, state complaints, or due process. The ADE/ESS staff will provide a copy of the procedural safeguards notice, brochures regarding mediation, state complaints, and due process, along with this booklet, to the person(s), if they so desire. It should be noted that the purpose of this booklet is to specifically describe the State Complaint System.

State Complaint System

Individuals or organizations may file signed written complaints with the ADE/ESS, if they believe an agency responsible for the provision of special education services is not in compliance with state and federal laws or regulations.

Complaint Procedures:

The complaint procedures outlined in this section are available for resolving any complaint that meets the following criteria:

A complaint:

- must be signed and written (anonymous complaints will not be processed);
- must include a statement that the public education agency has violated a requirement of Part B of IDEA '97, its implementing regulations, Arizona Revised Statutes, and/or Arizona Administrative Code, but need not identify the specific law or regulation involved;
- must clearly identify the concern or the alleged violation as well as the facts on which the statement is based (if needed, ADE/ESS will assist the complainant in clearly identifying the allegations.);
- must include the name of the child or children associated with the specific complaint allegations;
- must allege a violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the complaint is received;
- should include a daytime telephone number where the complainant can be reached along with a mailing address; and
- should be sent to the Director of Administrative Services at the following address:

**Arizona Department of Education
Exceptional Student Services
Director of Administrative Services
1535 West Jefferson
Phoenix, Arizona 85007**

If the complainant is unable to put the complaint in written form and/or if the home language is other than English, assistance will be provided by the Arizona Department of Education. Please call ADE/ESS at (602) 364-4000 or 1-800-352-4558.

The complaint will be date stamped upon a determination by the ADE/ESS that it meets the required components of a complaint. A letter will be considered a formal complaint only if it includes all of the criteria noted above.

The investigation will be concluded within sixty (60) calendar days of the date stamped on the complaint letter. The investigative process will be conducted as follows:

- A complaint investigator will attempt to contact the complainant within three (3) business days of receipt of a letter alleging violations of federal or state special education law and/or

regulations. The assigned investigator will ensure that the allegations and facts are clearly stated and give the complainant an opportunity to submit additional information, either orally or in writing, about the allegations. Any additional information or clarifications will be provided to the public education agency under investigation. If needed, ADE/ESS will assist the complainant in clearly identifying the allegations. If none of the allegations fall under the authority of ADE/ESS to investigate, ADE/ESS will, in writing, direct the complainant to the most appropriate avenue to pursue resolution.

- ADE/ESS takes the position that attempts at Early Resolution during the initial stage of the complaint investigation process can allow both parents and public education agencies the opportunity to identify concerns and aid in reaching an agreement to ensure the smooth delivery of special education services to children and youth with disabilities.
- Within ten (10) business days following the filing of a formal complaint as defined above, the Arizona Department of Education/Exceptional Student Services Division will contact the public education agency and the parent or guardian to attempt to resolve the issues through the Early Complaint Resolution process.
- In order for the Early Complaint Resolution process to be successful within the timeframe specified, both parties must make themselves available to readily communicate with the investigator.
- The Early Complaint Resolution process may be extended one time only for an additional five (5) business days if both parties are close to reaching a resolution and are in agreement with the extension. The determination to extend the Early Complaint Resolution process will be made on a case-by-case basis by the Arizona Department of Education/Exceptional Student Services.
- If an early resolution agreement is reached, then the parent and the public education agency will receive a Letter of Resolution that outlines the agreement.
- If an early resolution agreement is reached, it is understood that the complaint investigation process is brought to a close. In addition, the complaint allegations associated with the Individuals with Disabilities Education Act (IDEA) are considered resolved pursuant to 34 C.F.R. §§ 300.660-300.662 and, as such, are binding and must be complied with as written. There may be allegations that do not pertain to federal or state special education requirements. In the spirit of cooperation, the early resolution agreement may address these issues as well. However, these agreements are not enforceable.
- If parents or guardians have any concerns regarding the implementation of the agreement reached in the Letter of Resolution, then they may send a response letter to the Director of Administrative Services, Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007.
- The services offered under the Early Complaint Resolution process are available in all circumstances where there is a possibility for mutual resolution. If the Arizona Department of Education/Exceptional Student Services Division decides that any attempt to mutually resolve the complaint would be futile, the complaint investigator shall proceed as if ten (10) business days had expired without resolution of the dispute.

- If an early resolution agreement is not reached within the required timeframe, then the complaint investigation process will continue as stated below.
- A Letter of Acknowledgment will be sent, within ten (10) business days, to the complainant after a determination by the ADE/ESS that the letter meets the required components of a complaint. This letter will inform the complainant of:
 - ◆ The reference number that has been assigned to facilitate tracking and monitoring of the complaint;
 - ◆ The name of the complaint investigator;
 - ◆ A summary of the allegations, with a note informing the complainant to contact ADE/ESS immediately if the summary is incorrect;
 - ◆ An outline of the general procedures that will be followed; and
 - ◆ The timelines for the investigation.
- The same Letter of Acknowledgment, along with a copy of the complaint letter and any supporting documentation, will be sent, within ten (10) business days, to the chief administrator and the special education director or coordinator of the public education agency against which the complaint has been filed.
- A copy of the complaint letter and supporting documentation will be forwarded to the Education Program Specialist assigned to the public education agency by ADE/ESS.
- An on-site investigation will be made, unless a determination of compliance or noncompliance can be made by ADE/ESS through a review of the documentation provided.
- Any additional complaint issues submitted by the same complainant thirty (30) calendar days or less after the beginning of the sixty (60) calendar day timeline will be investigated along with the original issues.
- Any additional complaint issues submitted by the same complainant, more than thirty (30) calendar days after the beginning of the sixty (60) calendar day timeline, may, at the discretion of the Director of Administrative Services, be included in the original complaint or be logged and handled as a new complaint.
- The investigator will prepare a “Letter of Findings” upon the completion of the investigation. The “Letter of Findings” will include factual information, documentation, conclusions specific to the complaint allegations, and reasons for the final decision(s) as determined by ADE/ESS. Allegations that are not under the authority of ADE/ESS to investigate (e.g. issues regarding conflicts with staff members or discrimination) will be noted in the “Letter of Findings” and the complainant will be directed to the agency or personnel (e.g. the Office for Civil Rights or district administrative channels) that may more appropriately address these concerns.
- Other noncompliance issues discovered in the course of the investigation will be conveyed, in writing, to the public education agency, the complainant, and ADE/ESS Education Program Specialist either in the current “Letter of Findings” or in a subsequent Letter of Findings.
- The investigation will be completed within sixty (60) calendar days of the filing of a formal

complaint. At the conclusion of the investigation, ADE/ESS will issue a copy of the “Letter of Findings” to the complainant, the chief administrator of the public education agency, the special education director or coordinator, and the ADE/ESS Education Program Specialist assigned to assist the public education agency.

The 60-calendar day timeline may be extended by the Director of Administrative Services or a designee if exceptional circumstances exist. Exceptional circumstances include, but are not limited to:

- the non-availability of necessary key individuals;
- the identification of other areas of noncompliance that were discovered by the complaint investigator during the course of the investigation;
- the submission of additional information by any of the parties regarding the complaint that significantly impacts the investigation; or
- a request for a due process hearing or court action filed on identical issues. However, in accordance with the federal regulations, “...any issue in the complaint that is not part of the due process action must be resolved using the time limit and procedures described...” 34 C.F.R. § 300.661(c).

If an extension is required, ADE/ESS will send a letter to all parties detailing the exceptional circumstance(s) and the date by which the “Letter of Findings” will be issued. If an extension is granted due to the unavailability of key individuals, the extension letter will highlight the urgency in contacting ADE/ESS immediately upon the return of those individuals.

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As stated in the federal regulations, the State Educational Agency (SEA) has the responsibility to “[i]ssue a written decision to the complainant that addresses each allegation in the complaint and contains – (i) findings of fact and conclusions; and (ii) the reasons for the SEA’s final decision.” 34 C.F.R. § 300.661(a)(4). Therefore, the “Letter of Findings” is final and not subject to appeal. However, if either party has concerns regarding the decision(s) reached in the “Letter of Findings,” either party may send a response letter to the Director of Administrative Services, Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007. A follow-up letter will be sent to the respondent outlining the additional steps, if any, that will be taken by ADE/ESS. If a response letter is sent to ADE/ESS, the public education agency is not relieved from completing the required corrective action while awaiting a follow-up letter.

CORRECTIVE ACTION PROCEDURES

Where noncompliance or partial noncompliance is found, technical assistance, negotiation, and other types of corrective action will be required within the timelines as delineated in the “Letter of Findings.”

NOTE: If applicable, as per the federal regulations, the corrective action will address how the public education agency will award the complainant compensatory services and/or monetary reimbursement for costs that should not have been incurred by the complainant. 34 C.F.R. § 300.660 (b). When ADE/ESS finds that a public education agency is in partial noncompliance or noncompliance, the determination of the level of compensatory services will occur in one of two

ways: 1) ADE/ESS will direct the public education agency to provide a specific amount and type of compensatory services, or 2) ADE/ESS will direct the public education agency to reconvene the child's IEP team and have the IEP team determine the level of compensatory services, if any, to be provided. If responsibility for determining the level of compensatory services is with the IEP team, a "Compensatory Education Plan," to be completed by the IEP team, will be provided to the public education agency and the parent with the Letter of Findings.

If a "Letter of Findings" identifies noncompliance or partial noncompliance, the corrective action prescribed shall:

- ◆ require the immediate provision of services, or the immediate cessation of noncompliance, whichever is necessary;
 - ◆ outline the necessary steps required to prevent the reoccurrence of noncompliance;
 - ◆ require sufficient documentation to ensure that the noncompliance has been addressed; and
 - ◆ eliminate the past effects of the violation(s).
- The complainant's copy of the Letter of Findings will include a statement that requests the complainant to contact ADE/ESS if the public education agency is not implementing the required corrective action.
- Documentation of the corrective action submitted will be reviewed by the Corrective Action Coordinator (CAC) and placed in the master complaint file maintained by ADE/ESS. If the corrective action documentation received is incomplete, not completed as specified in the "Letter of Findings," or no documentation is received from the public education agency by the date specified in the "Letter of Findings," then the following steps will be taken by the public education agency and ADE/ESS:
1. The CAC will send a "Letter of Inquiry" to the public education agency, with a copy provided to the complainant, within three (3) full business days following the completion date specified in the "Letter of Findings" inquiring into the reason(s) the corrective action documentation was either submitted incomplete or not submitted in the time frame specified.
 2. The public education agency must provide a "Letter of Explanation" to ADE/ESS within three (3) full business days of receipt of the Letter of Inquiry explaining the circumstances surrounding the non-submission or incompleteness of the corrective action documentation.
 - If the circumstances are acceptable, then the CAC will compose a "Letter of Understanding" detailing (a) the CAC's concerns and the public education agency's explanation, (b) any decisions made to resolve the problem, and (c) a new negotiated due date. The CAC will send/fax this letter within five (5) full business days of receipt of the Letter of Explanation to the special education director or coordinator of the public education agency and the complainant. If the circumstances are unacceptable or the public education agency does not respond to the Letter of Inquiry as noted above, then the CAC will compose a "Letter of Concern" (*See* number 3 below).

- If the corrective action documentation submitted was not completed as specified in the “Letter of Findings,” the CAC will inform the public education agency that the corrective action item in question must be revised. A “Letter of Clarification” will be sent/faxed within five (5) full business days of receipt of the corrective action documentation to the special education director or coordinator and the complainant. A new due date for the revised corrective action will be assigned in this letter. If deemed appropriate, technical assistance will be offered in collaboration with the ADE/ESS Education Program Specialist assigned to assist the public education agency.
3. If the corrective action documentation received still remains incomplete, has not been received by ADE/ESS, or the corrective action has not been completed as specified in the “Letter of Findings,” the CAC will send a “Letter of Concern” to the chief administrator of the public education agency, with a copy to the special education director or coordinator and the complainant. The Letter of Concern will be sent within seven (7) full business days of the date of the Letter of Inquiry if the public education agency does not respond as specified, or within five (5) full business days of the negotiated due date of corrective action noted in the Letter of Understanding or Letter of Clarification. The letter will detail the corrective action items that are incomplete, the corrective action items that were not completed as specified in the “Letter of Findings,” or those items that have not been received. In this letter, the CAC will inquire as to what ADE/ESS can do to assist in expediting the completion of the required corrective action. The chief administrator will be informed that if the required corrective action is not submitted by the assigned due date specified in the Letter of Concern, then a “Letter of Enforcement” will be sent.
 4. If the ADE/ESS determines that the public education agency has not completed the corrective action(s) required, as set forth in the “Letter of Concern,” a “Letter of Enforcement” will be sent to the chief administrator, the special education director or coordinator, and the complainant within three (3) full business days of the overdue date, indicating that one or more of the following enforcement options will be taken:
 - ◆ Interruption of federal funds
 - ◆ Withholding federal or state funds
 - ◆ Redirection of federal funds to ensure the child receives a free appropriate public education (FAPE)
 - ◆ If applicable, report violations to a sponsoring entity and seek remedies through the appropriate Board
 5. Once the corrective action documentation has been received, reviewed, and accepted by ADE/ESS, a “Letter of Completion” will be sent to the chief administrator, the special education director or coordinator of the public education agency, the ADE/ESS Education Program Specialist assigned to assist the public education agency, and the complainant within five (5) full business days.